

House Bill 584

By: Representatives Hill of the 21st, McCall of the 30th, and England of the 108th

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 14 of Title 2 of the Official Code of Georgia Annotated, relating to sale of agricultural and forest products, so as to provide for the regulation of agritourism activities; to provide for legislative intent; to provide for definitions; to provide for limitations regarding liability; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 14 of Title 2 of the Official Code of Georgia Annotated, relating to sale of agricultural and forest products, is amended by adding a new article to read as follows:

"ARTICLE 8

2-14-170.

The General Assembly recognizes that persons who patronize farms offering agritourism activities may incur injuries as a result of inherent risks involved in such activities. The General Assembly also finds that this state and its citizens derive numerous economic, educational, environmental, cultural and personal benefits from such activities. The General Assembly finds, determines, and declares that this article is necessary for the immediate preservation of the public peace, health, and safety. It is, therefore, the intent of the General Assembly to encourage agritourism activities by limiting the civil liability of farmers involved in such activities.

2-14-171.

As used in this article, the term:

(1) 'Agritourism' means any activity:

(A) Carried out on property that is a 'bona fide conservation use property' as that term is defined by Code Section 48-5-7.4; provided, however, that property exceeding 2,000 acres shall be entitled to the protection provided by this Code section so long as the property meets the other requirements of Code Section 48-5-7.4; and

(B) Allowing members of the public, for recreational, entertainment, or educational purposes, to use, view, or enjoy agricultural property, machinery, resources, goods, domesticated and wild animals, history, or culture.

An activity is an agritourism activity whether or not the participant paid to participate in the activity.

(2) 'Agritourism professional' means a person, actual or corporate, who, for educational benefit, financial gain, or consideration, leads, hosts, or supervises agritourism activities, or owns, leases, or rents agricultural property on which agritourism activities occur. As used in this article, 'agritourism professional' shall include all agents, employees, and representatives of the agritourism professional.

(3) 'Inherent risks of agritourism activity' means those dangers or conditions associated with agritourism activities that are known to reasonable persons. Such dangers include, but are expressly not limited to, surface and subsurface conditions; natural conditions of land, vegetation, and waters; the behavior of wild or domestic animals; the ordinary dangers of structures or equipment ordinarily used in farming and ranching operations; and the potential of a participant to act in a negligent manner that may contribute to the injury to the participant or others.

(4) 'Participant' means any person who enters the agricultural property, singly or with a group, to engage in agritourism activities.

2-14-172.

(a) Except as provided in subsection (b) of this Code section, an agritourism professional shall not be liable for an injury to or the death of a participant resulting from that participant's failure to follow instructions given by the agritourism professional, failure to exercise reasonable caution while engaging in the agritourism activity, or the inherent risks of agritourism activities, except as provided in subsection (b) of this Code section.

(b) Nothing in subsection (a) of this Code section shall prevent or limit the liability of an agritourism professional if that agritourism professional:

(1) Commits an act or omission of gross negligence that injures the participant;

(2) Commits an act or omission that causes an injury to the participant and constitutes the willful or wanton disregard for the safety of the participant; or

(3) Intentionally injures the participant.

(c) Nothing in this Code section shall be interpreted to bar or limit any product liability claim arising under the laws of Georgia.

2-14-173.

(a) Every agritourism professional shall post and maintain signs which contain the warning notice specified in subsection (b) of this Code section. Such signs shall be placed in a clearly visible location at the entrance of the agritourism activity and arenas where the agritourism professional conducts agritourism activities. The warning notice specified in subsection (b) of this Code section shall appear on the sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an agritourism professional for the providing of professional services, instruction, or the rental of equipment to a participant, whether or not the contract involves agritourism activities on or off the location or site of the agritourism professional's or the agritourism activity sponsor's business, shall contain in clearly readable print the warning notice specified in subsection (b) of this Code section.

(b) The signs and contracts described in subsection (a) of this Code section shall contain the following warning notice:

'WARNING

Under Georgia law, an agritourism professional is not liable for an injury to or the death of a participant in agritourism activities resulting from the inherent risks of agritourism activities, pursuant to Article 8 of Chapter 14 of Title 2 of the Official Code of Georgia Annotated.'

(c) Failure to comply with the requirements concerning warning signs and notices provided in this Code section shall prevent an agritourism activity sponsor or agritourism professional from invoking the privileges of immunity provided by this article."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.